

112TH CONGRESS  
1ST SESSION

# H. R. 2633

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 13, 2011

Received; read twice and referred to the Committee on the Judiciary

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## AN ACT

To amend title 28, United States Code, to clarify the time limits for appeals in civil cases to which United States officers or employees are parties.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Appeal Time Clarifica-  
3 tion Act of 2011”.

4 **SEC. 2. FINDINGS.**

5 Congress finds that—

6 (1) section 2107 of title 28, United States  
7 Code, and rule 4 of the Federal Rules of Appellate  
8 Procedure provide that the time to appeal for most  
9 civil actions is 30 days, but that the appeal time for  
10 all parties is 60 days when the parties in the civil  
11 action include the United States, a United States of-  
12 ficer, or a United States agency;

13 (2) the 60-day period should apply if 1 of the  
14 parties is—

15 (A) the United States;

16 (B) a United States agency;

17 (C) a United States officer or employee  
18 sued in an official capacity; or

19 (D) a current or former United States offi-  
20 cer or employee sued in an individual capacity  
21 for an act or omission occurring in connection  
22 with duties performed on behalf of the United  
23 States;

24 (3) section 2107 of title 28, United States  
25 Code, and rule 4 of the Federal Rules of Appellate  
26 Procedure (as amended to take effect on December

1       1, 2011, in accordance with section 2074 of that  
2       title) should uniformly apply the 60-day period to  
3       those civil actions relating to a Federal officer or  
4       employee sued in an individual capacity for an act  
5       or omission occurring in connection with Federal du-  
6       ties;

7               (4) the civil actions to which the 60-day periods  
8       should apply include all civil actions in which a legal  
9       officer of the United States represents the relevant  
10      officer or employee when the judgment or order is  
11      entered or in which the United States files the ap-  
12      peal for that officer or employee; and

13              (5) the application of the 60-day period in sec-  
14      tion 2107 of title 28, United States Code, and rule  
15      4 of the Federal Rules of Appellate Procedure—

16                   (A) is not limited to civil actions in which  
17                   representation of the United States is provided  
18                   by the Department of Justice; and

19                   (B) includes all civil actions in which the  
20                   representation of the United States is provided  
21                   by a Federal legal officer acting in an official  
22                   capacity, such as civil actions in which a Mem-  
23                   ber, officer, or employee of the Senate or the  
24                   House of Representatives is represented by the  
25                   Office of Senate Legal Counsel or the Office of

1 General Counsel of the House of Representa-  
2 tives.

3 **SEC. 3. TIME FOR APPEALS IN CERTAIN CASES.**

4 Section 2107 of title 28, United States Code, is  
5 amended—

6 (1) in subsection (a)—

7 (A) by striking “order or decree” each  
8 place it appears and inserting “order, or de-  
9 cree”;

10 (B) by striking “suit or proceeding” and  
11 inserting “suit, or proceeding”; and

12 (C) by striking “filed, within thirty” and  
13 inserting “filed within 30”; and

14 (2) by amending subsection (b) to read as fol-  
15 lows:

16 “(b) In any such action, suit, or proceeding, the time  
17 as to all parties shall be 60 days from such entry if one  
18 of the parties is—

19 “(1) the United States;

20 “(2) an agency of the United States;

21 “(3) an officer or employee of the United States  
22 who is sued in an official capacity; or

23 “(4) a current or former officer or employee of  
24 the United States who is sued in an individual ca-  
25 pacity for an act or omission occurring in connection

1 with duties performed on behalf of the United  
2 States, including any instance in which the United  
3 States represents that person when the judgment,  
4 order, or decree is entered or files the appeal for  
5 that person.”.

6 **SEC. 4. EFFECTIVE DATE.**

7 The amendments made by this Act shall take effect  
8 on December 1, 2011.

Passed the House of Representatives September 12,  
2011.

Attest:

KAREN L. HAAS,  
*Clerk.*